

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DANIEL PACHECO,

Petitioner,

v.

Case Number: 08-CV-13245
Honorable Lawrence P. Zatkoff

SHIRLEY HARRY,

Respondent.

**ORDER RE-OPENING CASE, DIRECTING SERVICE UPON RESPONDENT,
AND SETTING DEADLINES FOR RESPONSIVE PLEADINGS**

Petitioner Daniel Pacheco, a state prisoner, filed a petition for writ of habeas corpus under 28 U.S.C. § 2254, challenging his state-court convictions for two counts of first-degree criminal sexual conduct, Mich. Comp. Laws § 750.520b, and two counts of kidnapping, Mich. Comp. Laws § 750.349, which were imposed following a jury trial in the Genesee County, Michigan, Circuit Court in 1988. On August 4, 1988, Petitioner was sentenced to 100 to 200 years imprisonment on each count; each count to be served concurrent to each other. At the time that the above-stated offenses were committed by Petitioner, he was an escapee, who was serving a two- to five-year prison sentence for unlawfully driving away an automobile. After he was convicted and sentenced in this case, he pleaded guilty to, and was sentenced for, prison escape. Petitioner was eventually re-sentenced to twenty- to thirty-years imprisonment, to be served consecutively to his sentence for prison escape.

Previously, Petitioner filed three habeas petitions in federal court, challenging the same convictions and sentence. On that basis, this Court transferred the matter to the United States Court of Appeals for the Sixth Circuit as a second or successive petition. The Sixth Circuit has recently

returned the case to this Court “with the instruction that the petition be accepted for filing as of the date originally filed in the district court.” *See In re Daniel Pacheco*, No. 08-2019, slip op. at 2 (Apr. 20, 2009).

Accordingly, the Court **ORDERS** that this case be re-opened and that Respondent be served with a copy of the habeas-corpus petition and all pleadings filed in the case to date. The Court further **ORDERS** Respondent to file an answer to the habeas petition within ninety (90) days of the filing date of this order in accordance with Rule 5 of the Rules Governing Section 2254 Cases. *See* Rule 5, 28 U.S.C. foll. § 2254. Petitioner shall have forty-five (45) days from the receipt of Respondent’s answer to file any reply to that answer.

SO ORDERED.

S/Lawrence P. Zatkoff
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

DATED: May 4, 2009